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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/805,187	03/13/2001	Robert J. Tuttle	PC-738CIP	1707
23717	7590	12/18/2003	EXAMINER	
LAW OFFICES OF BRIAN S STEINBERGER 101 BREVARD AVENUE COCOA, FL 32922			PHAN, JOSEPH T	
			ART UNIT	PAPER NUMBER
			2645	

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8

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/805,187

Applicant(s)

TUTTLE, ROBERT J.

Examiner

Joseph T. Phan

Art Unit

2645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 August 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

1. Claims 1-15 objected to because of the following informalities: Claim 1 and 11 lines 5 and 6 both steps start with "(a)". It is not known what "(i)" or "(ii)" is referring to. This numbering system also causes confusion in other claims, for example, claim 7 line 2 recites "...wherein step(a)" It is not known if step(a) refers to step (ai) or step (aII). Examiner recommends removing these letters so dependent claims are clearer also and repeating steps if needed. Appropriate correction or clarification is required.

Claim Rejections - 35 USC § 102 or 103

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-20 rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Cox et al., Patent #6,233,319.

Regarding claims 1, 11, and 20 Cox teaches an automated method of delivering a recorded information message via a telephone dialing system to an automated recorder while simultaneously monitoring the recorder for echo cancellation signals, comprising the steps of:

- (a) (i) placing a telephone call to an answering machine and playing a recorded information message onto the answering machine(166-170 Fig.3 and col.2 lines 15-25);
- (c) monitoring the answering machine for echo cancellation signals while simultaneously playing the recorded message (172-176 Fig.3 and col.3 lines 7-53);
- (d) repeating step (b) for echo cancellation signals(col.2 lines 18-25); and
- (e) continuing to play the recorded message if there are no echo cancellation signals, wherein the method overcomes problems with premature launching of the recorded message so that the recorded message is launched closer to the time when the answering machine begins recording(176-178 Fig.3 and col.4 lines 11-41).

Regarding the claimed (a) (ii) of detecting a solid tone, Cox does not explicitly disclose the step of alternatively detecting for both a solid tone emitted from the answering machine over a first time period and for a silence response over a second time period, wherein the first is different from the second time period; however Cox does detect energy, noise, or speech *for a selected time period when the call was answered, and then a prerecorded message is sent out when a silence condition is detected*[see col.3 lines 6-24 and lines 43-53; silence OR energy condition of a predetermined

threshold]. It is understood and well-known that answering machines play an outgoing greeting message(speech) followed by a beep(energy) to begin recording (this is a standard and a well-known feature of answering machines which Cox discloses in col.3 lines 38-53); also beep tone from an answering machine is within the voice band and Cox's detector can inherently detect such tone before detecting the silence condition. Further, it would be obvious to modify the detector in Cox to detect the claim "solid tone" of Cox, as argued by the applicant, does not teach such tone detector. It is not uncommon that an answering machine answers a call without delivering a greeting message, and modifying Cox's detector to detect the beep tone from the answering machine enables the Cox system servicing those called parties to be able to support those conditions and still play a recorded message onto the answering machine after the silence condition is met.

Regarding claim 2, Cox teaches the automated method of delivering the recorded information message of claim 1, wherein the echo cancellation signals includes: sounds being emitted from the answering machine (col.4 lines 3-10).

Regarding claim 3, Cox teaches the automated method of delivering the recorded information message of claim 1, wherein step(d) further includes: repeating step (b) for less than three sound occurrences (col.2 lines 20-24; a message replayed just once is less than three sound occurrences).

Regarding claim 4, Cox teaches the automated method of delivering the recorded information message of claim 1, wherein step(e) further includes:

continuing to play the recorded message if there are at least three echo cancellation signals(col.2 lines 20-24).

Regarding claim 5, Cox teaches the automated method of delivering the recorded information message of claim 1, further comprising the steps of-

(f) removing echo signal monitoring and continuing to play the recorded message to completion (col.3 lines 34-54).

Regarding claim 6, Cox teaches the automated system for delivering recorded information messages of claim 1, wherein the answering machine of step(a) is chosen from one of:

a tape machine, a digital machine, a pager, a telephone provider voice/memory call machine, and a cellular machine(42 Fig.1, col.2 lines 40-44, and col.4 lines 54-64; it is understood that at least one of these machines can be the recipient).

Regarding claim 7, Cox teaches the automated system for delivering recorded information messages of claim 1, wherein step(a) includes:

(a)(i) placing a telephone call to a telephone number selected from a database of telephone numbers(col.2 lines 45-48);

(a)(ii) monitoring status of the call to determine if the call is connected or not connected(166 Fig.3), if the call is connected go to step (a)(iv), if the call is not connected go to step(a)(iii) (col.2 lines 41-48 and col.3 lines 6-53);

(a)(iii) disconnecting the call and updating the database to reflect the call being not connected, and go to step (a)(i) select another telephone number from the database (col.2 lines 41-48 and col.3 lines 6-53); and

(a)(iv) determine if an answering machine noise signal is detected over a first time period or a silence response is detected over a second time period, the first time period being different from the second time period and if so go to step (b) (col.3 lines 7-52); and (a)(v) determine if a live cadence/voice signal is detected and if so go to step (b); and (b) playing a recorded information message (col.1 lines 51-65).

Regarding claim 8, Cox teaches the method of claim 1, wherein the selected time period of the solid tone emission is approximately one second (col.3 lines 6-24).

Regarding claim 9, Cox teaches the method of claim 1, further comprising the step of: (a) (iii) subsequently detecting for a silent response from the answering machine over a subsequent time period after the detection of the solid tone emission, wherein the subsequent time period is different from the selected time period (col.3 lines 7-53).

Regarding claim 10, Cox teaches the method of claim 9, wherein the selected time period of the solid tone emission is approximately one second, and the subsequent time period for the silent response is approximately two seconds (col.3 lines 7-53).

Regarding claim 12, Cox teaches the method of claim 11 wherein the first time period of the solid tone emission is approximately one second and the second time period for the silent response is approximately two seconds (col.3 lines 7-53).

Regarding claim 13, Cox teaches the method of claim 11 further comprising the step of:

(a)(iii) detecting for a subsequent silence response over a subsequent time period after expiration of the first time period for the detection of the solid tone emission

from the answering machine, the subsequent time period being different from the first time period(col.3 lines 7-53).

Regarding claim 14, Cox teaches the method of claim 13 wherein the first time period is approximately one second, and the subsequent time period is approximately two seconds(col.3 lines 7-53).

Regarding claim 15, Cox teaches the method of claim 11, further comprising the step of:

(a)(iii) detecting for a subsequent silence response over a subsequent time period after expiration of the second time period for the detection of the silence response from the answering machine, the subsequent time period being different from the second time period(col.3 lines 7-53).

Regarding claim 16, Cox teaches the method of claim 15, wherein the second time period is approximately two seconds and the subsequent time period is approximately one second(col.3 lines 7-53 and col.4 lines 21-41).

Regarding claim 17, Cox teaches the method of claim 11, further comprising the steps of:

(a)(iii) detecting for a first subsequent silence response over a first subsequent time period after expiration of the first time period for the detection of the solid tone emission from the answering machine, the first subsequent time period being different from the first time period; and detecting for a second subsequent silence response over a second subsequent time period after expiration of the second time period for the detection of the silence response from the answering machine, the second subsequent

time period being different from the second time period(col.3 lines 7-53 and col.4 lines 21-41).

Regarding claim 18, Cox teaches the method of claim 17, wherein the first time period is approximately one second and the second time period is approximately two seconds(col.3 lines 7-53 and col.4 lines 21-41).

Regarding claim 19, Cox teaches the method of claim 18, wherein the first subsequent time period is approximately two seconds, and the second subsequent time period is approximately one second(col.3 lines 7-53 and col.4 lines 21-41).

Response to Arguments

5. Applicant's arguments with respect to claim1-20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph T Phan whose telephone number is 703-305-3206. The examiner can normally be reached on M-TH 9:00-6:30, in every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on 703-305-4895. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-9600.

JTP
November 19, 2003



FAN TSANG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

